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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ NOV - 1 2011 ★

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ALBERTO REYES JR.,

BROOKLYN OFFICE Civil Action No.:

Plaintiff,

-against-

APEX FINANCIAL MANAGEMENT

Defendant(s).
-----X

CV 11-5316
COMPLAINT

WEXLER, J.

DEMAND FOR JURY TRIAL

Plaintiff Alberto Reyes Jr. ("Plaintiff"), by and through his attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant Apex Financial Management hereinafter referred to as "Defendant(s)", respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, residing at 1351 Wilson Rd., Street, East Meadow, Long Island, 11554.

3. Defendant Apex Financial Services is a corporation doing business in Illinois, with their main office at 1120 Cook Road, Suite A, Buffalo Grove, IL 60089.

4. Apex Financial Services is a "debt collector" as the phrase is defined and used in the FDCPA under 15 USC §1692a (6).

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendant, on behalf of a third-party or itself as purchaser of the debt, began collecting an alleged consumer debt.

9. On information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communicating with the Plaintiff from January 25th of 2011 by calling the Plaintiff to the phone number of 516.539.0002 and leaving a message on his phone.

10. The Plaintiff, Alberto Reyes Jr., lived with his son, Alberto Reyes III, and shared the phone with him, when the message was left.

11. The Defendant violated 15 USC §1692c (b) when the Plaintiff's son, Alberto Reyes III, heard the Defendant's message when checking the voicemail which revealed that the Plaintiff owed a debt and was being contacted by a debt collector.

12. The Defendant's message contained all of the required disclosure under 15 USC §1692e(11).

13. The Defendant further violated 15 USC §1692c (a) (2) by contacting the

Plaintiff on February 12th, 2011 after the Defendant received a letter of representation and draft complaint from the Plaintiff's attorney on February 4th, 2011, 2011.

14. The Defendant further violated 15 USC §1692c (a) (2) by contacting the Plaintiff by a letter dated April 12th, 2011 after the Defendant received a letter of representation from the Plaintiff's attorney on January 31st, 2011.

15. The Defendant further violated 15 USC §1692c (a) (2) by calling the Plaintiff on Maribel Reyes phone 516.539.0002 on June 28th, 2011 after receiving three letters of representation from Attorney M. Harvey Rephen on February 4th, 2011, February 15th, 2011, and again o February 25th, 2011.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.

17. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692c (b) and 1692c (a)(2).

18. As a result of Defendant's violations of the FDCPA, the Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

19. Plaintiff Alberto Reyes Jr. hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

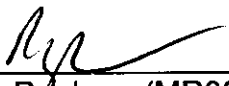
PRAYER FOR RELIEF

WHEREFORE, Plaintiff Alberto Reyes Jr. demands judgment from the Defendants Apex Financial Management as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
September 20, 2011

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
Phone: (212) 796-0930
Facsimile: (212) 330-7582

Attorney for the Plaintiff Alberto Reyes Jr.

To: Apex Financial Services
1120 Cook Road, Suite A
Buffalo Grove, IL 60089

(Via Prescribed Service)

Clerk,
United States District Court, Eastern District of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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-against-

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